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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 3884 OF 2007

Ajgar @ Asgar Budh Ansari .. Applicant

v/s

State of Maharashtra .. Respondent

Mr.R.U. Jha for the applicant.

Mr.Rajesh More, A.P.P. for the State.

CORAM : D.G. KARNIK, J.

DATE : 10TH DECEMBER 2007

P.C. :

1. Heard the learned counsel for the applicant and the learned A.P.P. for the State.

2. This application for bail is made by the applicant who is original accused no.5 in Sessions Case No.141 of 1998. The applicant has been charged for the offences punishable under sections 143, 149, 307, 336, 353, 395 and 397 of the I.P.C. The case is pending since the year 1998.

3. The applicant was previously granted bail and

was on bail. However, on 25th October 2007, the applicant was absent and, therefore, a non-bailable warrant was issued against him. The applicant thereafter appeared before the Court and applied for cancellation of non-bailable warrant on the ground that he could not attend the Court on 25th October 2007 on account of his illness. By an order dated 16th November 2007, the learned Adhoc Sessions Judge rejected the prayer for cancellation of non-bailable warrant and the applicant has been arrested. The applicant thereafter made a fresh application for bail. By an order dated 23rd November 2007, the said application has been rejected.

4. Learned counsel for the applicant submitted that the applicant had been attending the court for the last 7 years regularly. Except for one or two occasions for which the permission for absence was obtained, the applicant has not remained absent in the past. The applicant has observed all the conditions of bail and there was no occasion in the past for cancellation of bail and/or issuance of a warrant. On 25th October 2007, he could not attend the court on account of illness.

5. The learned Adhoc Sessions Judge has held that the applicant has not proved that he was ill on 25th

October 2007 and has pointed out certain deficiency in the medical certificate. Assuming that the applicant has not been able to prove his illness, the fact remains that the applicant had been attending the court in the past regularly and had not breached any of the conditions. Immediately on knowing of the issuance of non-bailable warrant, the applicant appeared before the court and applied for cancellation of the said warrant. This conduct of the applicant shows that he had no deliberate intention of remaining absent on 25th October 2007. In the facts and circumstances of thee case, interest of justice would be served by granting bail to the applicant by imposing stringent conditions and imposing some costs. In the circumstances, I pass the following order.

ORDER

The applicant be released on bail on executing a personal bond of Rs.30,000/- with two sureties of Rs.15,000/- each. All other conditions imposed when the previous bail was granted shall also apply. The applicant shall also pay costs of Rs.500/- to the Maharashtra State Legal Services Authority and produce receipt before the Sessions Court.

(D.G. KARNIK, J.)